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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT PAPER NUMBER

3623

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/024,526

**Applicant(s)**

GUPTA ET AL.

**Examiner**

Susanna M. Diaz

**Art Unit**

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**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This final Office action is responsive to Applicant's amendment filed May 16, 2006.

Claims 1, 6-8, 10, and 13-22 have been amended.

Claims 1-22 are presented for examination.

2. The previously pending objection to the drawings is withdrawn in response to Applicant's submission of substitute drawings.

The previously pending objection to the specification is withdrawn in response to Applicant's amendments to the specification.

The previously pending rejections under 35 U.S.C. § 112 are withdrawn in response to Applicant's claim amendments.

### ***Response to Arguments***

3. Applicant's arguments filed May 16, 2006 have been fully considered but they are not persuasive.

Applicant argues that revising or updating a model equation based on new actual data on sales (as taught by Woo) is not an example of validating archived sales data (page 9 of Applicant's response). The Examiner respectfully disagrees. By revising or updating a model equation based on new sales data, it is understood that old data is being replaced because it is no longer the most accurate data available. In other words, the integrity of the data is no longer sufficient enough for the model equation since more

accurate data is available. If there is no need to revise or update a model equation, it is understood that the stored model equation data is still valid and therefore has good integrity on some level for purposes of applying the model equation. The Examiner's interpretation is further supported by the language of dependent claim 20 which defines the step of validating the archived sales data as "checking for new sales data." By updating the sales data, a check for new sales data must occur.

Applicant argues that "Woo lacks any teaching or suggestion of identifying items of the archived sales data with a SKU code of zero" (page 9 of Applicant's response). This limitation has just recently been amended into claim 15 and will be addressed in more detail below.

Also, Examiner notes that, as per MPEP § 2144.03(C), the statements of Official Notice made in the art rejection have been established as admitted prior art since Applicant has not traversed the Examiner's assertions of Official Notice. More specifically, the following statements of Official Notice are now formally established on record as admitted prior art:

(1) ...it is old and well-known in the art of sales analysis to incorporate tax rate data.

(2) Official Notice is taken that it is old and well-known in the art of product planning to introduce new products into the market.

In conclusion, Applicant's arguments are not persuasive. The art rejection has been revised to address the claim amendments.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-11, 13, 14, and 19-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Woo et al. (U.S. Patent No. 6,910,017).

Woo discloses a method for analyzing product sales strategies using archived sales data, said method comprising the steps of:

[Claim 1] importing a sales profile (col. 3, lines 4-49; col. 4, lines 7-10; col. 5, lines 1-33);

defining an analysis period (col. 5, lines 34-49; col. 6, lines 19-41; col. 7, line 21 through col. 8, line 49);

formatting at least a part of the archived sales data into one or more text files (col. 3, lines 4-49; col. 4, lines 7-10; col. 5, lines 1-33);

verifying the integrity of the one or more text files based on validating the archived sales data (col. 8, lines 39-49 – The model is modified as new actual data on sales becomes available. By revising or updating a model equation based on new sales data, it is understood that old data is being replaced because it is no longer the most accurate data available. In other words, the integrity of the data is no longer sufficient

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enough for the model equation since more accurate data is available. If there is no need to revise or update a model equation, it is understood that the stored model equation data is still valid and therefore has good integrity on some level for purposes of applying the model equation);

calculating an adjusted weekly sale value based on said sales profile, said analysis period, and at least one of the one or more text files (col. 5, lines 34-49; col. 6, lines 19-41; col. 7, line 21 through col. 8, line 49);

calculating an uplifted sale value based on a selected uplift percentage (Fig. 6; col. 6, line 60 through col. 7, line 14); and

calculating a profit based on said uplifted sale value and said adjusted weekly sale value (col. 5, lines 34-49; col. 6, lines 19-41; col. 7, line 21 through col. 8, line 49);

[Claim 2] performing a risk analysis (col. 3, lines 19-23; col. 8, lines 19-38);

[Claim 3] archiving said adjusted weekly sale value (col. 8, lines 38-49 – New data, based on weekly sales, is used to refine the model as such data becomes available);

[Claim 4] wherein said step of performing a risk analysis comprises a step of performing a best case analysis (col. 8, lines 19-38 – A scenario in which higher profitability is predicted with a lower probability chance of occurring is a best case analysis. Also, as per col. 5, lines 34-44, predicted profitability is determined within a range of error. Each extreme in this range of error reflects a best and worst case analysis, respectively);

[Claim 5] wherein said step of performing a risk analysis comprises a step of performing a worst case analysis (col. 8, lines 19-38 – A scenario in which lower

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profitability is predicted with a higher probability chance of occurring is a worst case analysis. Also, as per col. 5, lines 34-44, predicted profitability is determined within a range of error. Each extreme in this range of error reflects a best and worst case analysis, respectively);

[Claim 6] formatting said one or more text files into one or more corresponding database files (col. 3, lines 4-49; col. 4, lines 7-10; col. 5, lines 1-33);

formatting said one or more database files into one or more corresponding spreadsheet files (col. 5, lines 1-33); and

displaying said one or more spreadsheet files for a user (col. 5, lines 1-33);

[Claim 7] wherein at least one of said one or more text files comprises a spreadsheet (col. 5, lines 1-33);

[Claim 8] wherein at least one of said one or more text files comprises a hierarchy file listing products identified by product number (col. 3, lines 51-52; col. 4, line 42);

[Claim 9] wherein said step of formatting at least a part of the archived sales data into one or more text files (col. 4, lines 7-10; col. 5, lines 1-28 – Data must be entered in order to populate the files) comprises the steps of:

entering a class number and a class description (col. 3, line 35 through col. 4, line 47);

entering a subclass number and a subclass description (col. 3, line 35 through col. 4, line 47);

entering a style number and a style description (col. 3, line 35 through col. 4, line 47);

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entering an option number and an option description (col. 3, line 35 through col. 4, line 47); and

entering a product identifier number and an identifier number description (col. 3, line 35 through col. 4, line 47);

[Claim 10] wherein at least one of said one or more text files comprises an actuals file listing empirical figures for product sales (col. 3, lines 39-49; col. 8, lines 38-49);

[Claim 11] wherein said step of formatting at least a part of the archived sales data into one or more text files (col. 4, lines 7-10; col. 5, lines 1-28 – Data must be entered in order to populate the files) comprises the steps of:

entering a week and a product identifier number (col. 2, lines 53-67; col. 3, line 39 through col. 4, line 47);

entering pricing data (col. 2, lines 53-67);

entering stock on hand (col. 2, lines 53-67); and

entering commitment and sales units (col. 2, lines 53-67; col. 3, lines 15-16);

[Claim 13] wherein at least one of said one or more database files comprises a relational database (col. 5, lines 1-33 -- An Access database is a relational database);

[Claim 14] wherein at least one of said one or more spreadsheet files comprises a spreadsheet database (col. 5, lines 1-33 -- An Excel database is a spreadsheet database);

[Claim 19] wherein said step of validating the archived sales data comprises the step of checking file entries (col. 8, lines 39-49 – The model is modified as new actual data on sales becomes available);



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[Claim 20] wherein said step of validating the archived sales data comprises the step of checking for new sales data (col. 8, lines 39-49 – The model is modified as new actual data on sales becomes available).

[Claims 21, 22] Claims 21 and 22 recite limitations already addressed by the rejection of claim 1 above; therefore, the same rejection applies.

Woo is computer-implemented using software and various databases (col. 3, lines 4-49; col. 4, lines 7-10; col. 5, lines 1-33), thereby addressing the recited software, processor, and memory limitations.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woo et al. (U.S. Patent No. 6,910,017), as applied to claims 11 and 15 above.

[Claim 12] As discussed above, Woo accepts various types of entry into its databases for price decision support, yet Woo does not expressly disclose that a tax rate is entered. These differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements; therefore, such differences do not effectively serve to

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patentably distinguish the claimed invention over the prior art. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

Nevertheless, the Examiner submits that it is old and well-known in the art of sales analysis to incorporate tax rate data. This is useful to determine the effect, if any, of a local sales tax on the sale of an item. Since Woo analyzes sales data over time, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Woo to incorporate tax rate entries into its pricing decision calculations in order to facilitate more comprehensive analysis in regions where a local sales tax is significant enough to affect the sale of an item.

[Claim 15] While Woo's validation is based on determining whether or not sales data is updated (col. 8, lines 39-49), Woo does not expressly teach that the step of validating the archived sales data includes identifying one or more items of the archived sales data with a stock keeping unit (SKU) code of zero. However, Official Notice is taken that it is old and well-known in the art of data validation to verify the integrity of data by checking the data to make sure the data falls within an expected range of quantitative or qualitative values. This helps to identify and rectify erroneous, stored data values. For example, a SKU code of zero would be meaningless and erroneous. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at

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the time of Applicant's invention to modify Woo to perform a validation such that the step of validating the archived sales data includes identifying one or more items of the archived sales data with a stock keeping unit (SKU) code of zero in order to swiftly correct any erroneous, stored SKU codes.

[Claims 16-18] While Woo validates, or checks for, various types of data for updating the model (as discussed above), Woo does not expressly teach that validating archived sales data comprises entering net cost prices (claim 16), entering original selling prices (claim 17), or checking for new products (claim 18). However, Woo's calculations are related to optimizing and predicting profit (col. 8, lines 19-45). Woo also understands that each product has a life cycle which typically peaks at maximum popularity and then trails off over time (col. 4, lines 48-62). Official Notice is taken that it is old and well-known in the art of product planning to introduce new products into the market. This is important to continue interest in one's business, especially to replace older products that drift into obsolescence. Furthermore, it is also old and well-known in the art of sales that profit is directly correlated to selling prices and net cost prices. Since Woo validates its model based on continuously updated information (including lifecycle data) to improve predictions (col. 8, lines 45-49), the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Woo to validate archived sales data by entering net cost prices (claim 16), entering original selling prices (claim 17), or checking for new products (claim 18) in order to more accurately enable Woo's users to perform profit-related

analyses in light of various product lifecycles and introduction of new products, thereby improving the accuracy of product sales strategy analysis.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Susanna M. Diaz  
Primary Examiner  
Art Unit 3623

July 19, 2006